

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JUNE 18, 2012

AMENDED IN SENATE JUNE 6, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1736

Introduced by Assembly Member Smyth

February 16, 2012

An act to amend Sections 54954.2, 54954.5, and 54957 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1736, as amended, Smyth. Local government: open meetings.

~~The~~

(1) *The* Ralph M. Brown Act requires each legislative body of a local agency to provide the time and place for holding regular meetings and requires that all meetings of a legislative body be open and public. Under the act, all persons are permitted to attend any meeting of the legislative body of a local agency, unless a closed session is authorized. Under the act, the legislative body of a local agency is authorized to hold closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, as specified, or a threat to the public's right of access to public services or public facilities.

This bill would authorize the legislative body of a local agency to hold these closed sessions with the Governor and other specified individuals. This bill would require a legislative body of a local agency that meets in these specified types of a closed session to include additional information in its posted agenda regarding those in attendance.

~~Existing~~

(2) *Existing* constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(3) *This bill would incorporate additional changes in Section 54954.5 of the Government Code, as proposed by AB 2690 and SB 1395, to be operative depending on when these respective bills are effective and chaptered, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54954.2 of the Government Code is
2 amended to read:
3 54954.2. (a) (1) At least 72 hours before a regular meeting,
4 the legislative body of the local agency, or its designee, shall post
5 an agenda containing a brief general description of each item of
6 business to be transacted or discussed at the meeting, including
7 items to be discussed in closed session. A brief general description
8 of an item generally need not exceed 20 words. The agenda shall
9 specify the time and location of the regular meeting and shall be
10 posted in a location that is freely accessible to members of the
11 public and on the local agency's Internet Web site, if the local
12 agency has one. If requested, the agenda shall be made available
13 in appropriate alternative formats to persons with a disability, as
14 required by Section 202 of the Americans with Disabilities Act of
15 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations
16 adopted in implementation thereof. The agenda shall include
17 information regarding how, to whom, and when a request for
18 disability-related modification or accommodation, including
19 auxiliary aids or services, may be made by a person with a

1 disability who requires a modification or accommodation in order
2 to participate in the public meeting.

3 (2) No action or discussion shall be undertaken on any item not
4 appearing on the posted agenda, except that members of a
5 legislative body or its staff may briefly respond to statements made
6 or questions posed by persons exercising their public testimony
7 rights under Section 54954.3. In addition, on their own initiative
8 or in response to questions posed by the public, a member of a
9 legislative body or its staff may ask a question for clarification,
10 make a brief announcement, or make a brief report on his or her
11 own activities. Furthermore, a member of a legislative body, or
12 the body itself, subject to rules or procedures of the legislative
13 body, may provide a reference to staff or other resources for factual
14 information, request staff to report back to the body at a subsequent
15 meeting concerning any matter, or take action to direct staff to
16 place a matter of business on a future agenda.

17 (b) Notwithstanding subdivision (a), the legislative body may
18 take action on items of business not appearing on the posted agenda
19 under any of the conditions stated below. Prior to discussing any
20 item pursuant to this subdivision, the legislative body shall publicly
21 identify the item.

22 (1) Upon a determination by a majority vote of the legislative
23 body that an emergency situation exists, as defined in Section
24 54956.5.

25 (2) Upon a determination by a two-thirds vote of the members
26 of the legislative body present at the meeting, or, if less than
27 two-thirds of the members are present, a unanimous vote of those
28 members present, that there is a need to take immediate action and
29 that the need for action came to the attention of the local agency
30 subsequent to the agenda being posted as specified in subdivision
31 (a).

32 (3) The item was posted pursuant to subdivision (a) for a prior
33 meeting of the legislative body occurring not more than five
34 calendar days prior to the date action is taken on the item, and at
35 the prior meeting the item was continued to the meeting at which
36 action is being taken.

37 (c) This section is necessary to implement and reasonably within
38 the scope of paragraph (1) of subdivision (b) of Section 3 of Article
39 I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(e) If a legislative body of a local agency meets in closed session as set forth in subdivision (a) of Section 54957, the legislative body of a local agency shall also include in the posted agenda, required under paragraph (1) of subdivision (a), the first and last names, titles, and affiliations of all persons who will be attending the closed session meeting and are not a member of the legislative body or essential staff to that legislative body.

SEC. 2. Section 54954.5 of the Government Code is amended to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, except as required in subdivision (e) of Section 54954.2, the agenda may describe closed sessions as provided below. A legislative body or elected official shall not be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a

1 specified negotiator, an agent or designee may participate in place
2 of the absent negotiator so long as the name of the agent or
3 designee is announced at an open session held prior to the closed
4 session.)

5 Negotiating parties: (Specify name of party (not agent))

6 Under negotiation: (Specify whether instruction to negotiator
7 will concern price, terms of payment, or both)

8 (c) With respect to every item of business to be discussed in
9 closed session pursuant to Section 54956.9:

10 CONFERENCE WITH LEGAL COUNSEL—EXISTING
11 LITIGATION

12 (Subdivision (a) of Section 54956.9)

13 Name of case: (Specify by reference to claimant's name, names
14 of parties, case or claim numbers)

15 or

16 Case name unspecified: (Specify whether disclosure would
17 jeopardize service of process or existing settlement negotiations)

18 CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED
19 LITIGATION

20 Significant exposure to litigation pursuant to subdivision (b) of
21 Section 54956.9: (Specify number of potential cases)

22 (In addition to the information noticed above, the agency may
23 be required to provide additional information on the agenda or in
24 an oral statement prior to the closed session pursuant to
25 subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision
26 (b) of Section 54956.9.)

27 Initiation of litigation pursuant to subdivision (c) of Section
28 54956.9: (Specify number of potential cases)

29 (d) With respect to every item of business to be discussed in
30 closed session pursuant to Section 54956.95:

31 LIABILITY CLAIMS

32 Claimant: (Specify name unless unspecified pursuant to Section
33 54961)

34 Agency claimed against: (Specify name)

35 (e) With respect to every item of business to be discussed in
36 closed session pursuant to Section 54957:

37 PUBLIC EMPLOYEE APPOINTMENT

38 Title: (Specify description of position to be filled)

39 PUBLIC EMPLOYMENT

40 Title: (Specify description of position to be filled)

1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

2 Title: (Specify position title of employee being reviewed)

3 PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

4 (No additional information is required in connection with a
5 closed session to consider discipline, dismissal, or release of a
6 public employee. Discipline includes potential reduction of
7 compensation.)

8 (f) With respect to every item of business to be discussed in
9 closed session pursuant to Section 54957.6:

10 CONFERENCE WITH LABOR NEGOTIATORS

11 Agency designated representatives: (Specify names of designated
12 representatives attending the closed session) (If circumstances
13 necessitate the absence of a specified designated representative,
14 an agent or designee may participate in place of the absent
15 representative so long as the name of the agent or designee is
16 announced at an open session held prior to the closed session.)

17 Employee organization: (Specify name of organization
18 representing employee or employees in question)

19 or

20 Unrepresented employee: (Specify position title of unrepresented
21 employee who is the subject of the negotiations)

22 (g) With respect to closed sessions called pursuant to Section
23 54957.8:

24 CASE REVIEW/PLANNING

25 (No additional information is required in connection with a
26 closed session to consider case review or planning.)

27 (h) With respect to every item of business to be discussed in
28 closed session pursuant to Sections 1461, 32106, and 32155 of the
29 Health and Safety Code or Sections 37606 and 37624.3 of the
30 Government Code:

31 REPORT INVOLVING TRADE SECRET

32 Discussion will concern: (Specify whether discussion will
33 concern proposed new service, program, or facility)

34 Estimated date of public disclosure: (Specify month and year)

35 HEARINGS

36 Subject matter: (Specify whether testimony/deliberation will
37 concern staff privileges, report of medical audit committee, or
38 report of quality assurance committee)

39 (i) With respect to every item of business to be discussed in
40 closed session pursuant to Section 54956.86:

1 CHARGE OR COMPLAINT INVOLVING INFORMATION
2 PROTECTED BY FEDERAL LAW

3 (No additional information is required in connection with a
4 closed session to discuss a charge or complaint pursuant to Section
5 54956.86.)

6 (j) With respect to every item of business to be discussed in
7 closed session pursuant to Section 54956.96:

8 CONFERENCE INVOLVING A JOINT POWERS AGENCY
9 (Specify by name)

10 Discussion will concern: (Specify closed session description
11 used by the joint powers agency)

12 Name of local agency representative on joint powers agency
13 board: (Specify name)

14 (Additional information listing the names of agencies or titles
15 of representatives attending the closed session as consultants or
16 other representatives.)

17 (k) With respect to every item of business to be discussed in
18 closed session pursuant to Section 54956.75:

19 AUDIT BY BUREAU OF STATE AUDITS

20 *SEC. 2.1. Section 54954.5 of the Government Code is amended*
21 *to read:*

22 54954.5. For purposes of describing closed session items
23 pursuant to Section 54954.2, *except as required in subdivision (e)*
24 *of Section 54954.2*, the agenda may describe closed sessions as
25 provided below. ~~No~~ A legislative body or elected official shall *not*
26 be in violation of Section 54954.2 or 54956 if the closed session
27 items were described in substantial compliance with this section.
28 Substantial compliance is satisfied by including the information
29 provided below, irrespective of its format.

30 (a) With respect to a closed session held pursuant to Section
31 54956.7:

32 LICENSE/PERMIT DETERMINATION

33 Applicant(s): (Specify number of applicants)

34 (b) With respect to every item of business to be discussed in
35 closed session pursuant to Section 54956.8:

36 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

37 Property: (Specify street address, or if no street address, the
38 parcel number or other unique reference, of the real property under
39 negotiation)

1 Agency negotiator: (Specify names of negotiators attending the
2 closed session) (If circumstances necessitate the absence of a
3 specified negotiator, an agent or designee may participate in place
4 of the absent negotiator so long as the name of the agent or
5 designee is announced at an open session held prior to the closed
6 session.)

7 Negotiating parties: (Specify name of party (not agent))

8 Under negotiation: (Specify whether instruction to negotiator
9 will concern price, terms of payment, or both)

10 (c) With respect to every item of business to be discussed in
11 closed session pursuant to Section 54956.9:

12 CONFERENCE WITH LEGAL COUNSEL—EXISTING
13 LITIGATION

14 ~~(Subdivision (a))~~ *(Paragraph (1) of subdivision (d) of Section*
15 *54956.9)*

16 Name of case: (Specify by reference to claimant's name, names
17 of parties, case or claim numbers)

18 or

19 Case name unspecified: (Specify whether disclosure would
20 jeopardize service of process or existing settlement negotiations)

21 CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED
22 LITIGATION

23 Significant exposure to litigation pursuant to ~~subdivision (b)~~
24 *paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Specify*
25 *number of potential cases)*

26 (In addition to the information noticed above, the agency may
27 be required to provide additional information on the agenda or in
28 an oral statement prior to the closed session pursuant to
29 ~~subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision~~
30 ~~(b) paragraphs (2) to (5), inclusive, of subdivision (e) of Section~~
31 *54956.9.)*

32 Initiation of litigation pursuant to ~~subdivision (e) paragraph (4)~~
33 *of subdivision (d) of Section 54956.9: (Specify number of potential*
34 *cases)*

35 (d) With respect to every item of business to be discussed in
36 closed session pursuant to Section 54956.95:

37 LIABILITY CLAIMS

38 Claimant: (Specify name unless unspecified pursuant to Section
39 54961)

40 Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

~~Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)~~

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

1 REPORT INVOLVING TRADE SECRET

2 Discussion will concern: (Specify whether discussion will
3 concern proposed new service, program, or facility)

4 Estimated date of public disclosure: (Specify month and year)

5 HEARINGS

6 Subject matter: (Specify whether testimony/deliberation will
7 concern staff privileges, report of medical audit committee, or
8 report of quality assurance committee)

9 (i) With respect to every item of business to be discussed in
10 closed session pursuant to Section 54956.86:

11 CHARGE OR COMPLAINT INVOLVING INFORMATION
12 PROTECTED BY FEDERAL LAW

13 (No additional information is required in connection with a
14 closed session to discuss a charge or complaint pursuant to Section
15 54956.86.)

16 (j) With respect to every item of business to be discussed in
17 closed session pursuant to Section 54956.96:

18 CONFERENCE INVOLVING A JOINT POWERS AGENCY
19 (Specify by name)

20 Discussion will concern: (Specify closed session description
21 used by the joint powers agency)

22 Name of local agency representative on joint powers agency
23 board: (Specify name)

24 (Additional information listing the names of agencies or titles
25 of representatives attending the closed session as consultants or
26 other representatives.)

27 (k) With respect to every item of business to be discussed in
28 closed session pursuant to Section 54956.75:

29 AUDIT BY BUREAU OF STATE AUDITS

30 *SEC. 2.3. Section 54954.5 of the Government Code is amended*
31 *to read:*

32 54954.5. For purposes of describing closed session items
33 pursuant to Section 54954.2, *except as required in subdivision (e)*
34 *of Section 54954.2*, the agenda may describe closed sessions as
35 provided below. ~~No~~ A legislative body or elected official shall *not*
36 be in violation of Section 54954.2 or 54956 if the closed session
37 items were described in substantial compliance with this section.
38 Substantial compliance is satisfied by including the information
39 provided below, irrespective of its format.

1 (a) With respect to a closed session held pursuant to Section
2 54956.7:

3 LICENSE/PERMIT DETERMINATION

4 Applicant(s): (Specify number of applicants)

5 (b) With respect to every item of business to be discussed in
6 closed session pursuant to Section 54956.8:

7 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

8 Property: (Specify street address, or if no street address, the
9 parcel number or other unique reference, of the real property under
10 negotiation)

11 Agency negotiator: (Specify names of negotiators attending the
12 closed session) (If circumstances necessitate the absence of a
13 specified negotiator, an agent or designee may participate in place
14 of the absent negotiator so long as the name of the agent or
15 designee is announced at an open session held prior to the closed
16 session.)

17 Negotiating parties: (Specify name of party (not agent))

18 Under negotiation: (Specify whether instruction to negotiator
19 will concern price, terms of payment, or both)

20 (c) With respect to every item of business to be discussed in
21 closed session pursuant to Section 54956.9:

22 CONFERENCE WITH LEGAL COUNSEL—EXISTING
23 LITIGATION

24 (Subdivision (a) of Section 54956.9)

25 Name of case: (Specify by reference to claimant's name, names
26 of parties, case or claim numbers)

27 or

28 Case name unspecified: (Specify whether disclosure would
29 jeopardize service of process or existing settlement negotiations)

30 CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED
31 LITIGATION

32 Significant exposure to litigation pursuant to subdivision (b) of
33 Section 54956.9: (Specify number of potential cases)

34 (In addition to the information noticed above, the agency may
35 be required to provide additional information on the agenda or in
36 an oral statement prior to the closed session pursuant to
37 subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision
38 (b) of Section 54956.9.)

39 Initiation of litigation pursuant to subdivision (c) of Section
40 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

~~THREAT TO PUBLIC SERVICES OR FACILITIES~~

~~Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)~~

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY
(Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

~~AUDIT BY BUREAU OF STATE AUDITS~~ **CALIFORNIA
STATE AUDITOR'S OFFICE**

SEC. 2.5. Section 54954.5 of the Government Code is amended to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, *except as required by subdivision (e)*

1 of Section 54954.2, the agenda may describe closed sessions as
2 provided below. No A legislative body or elected official shall *not*
3 be in violation of Section 54954.2 or 54956 if the closed session
4 items were described in substantial compliance with this section.
5 Substantial compliance is satisfied by including the information
6 provided below, irrespective of its format.

7 (a) With respect to a closed session held pursuant to Section
8 54956.7:

9 LICENSE/PERMIT DETERMINATION

10 Applicant(s): (Specify number of applicants)

11 (b) With respect to every item of business to be discussed in
12 closed session pursuant to Section 54956.8:

13 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

14 Property: (Specify street address, or if no street address, the
15 parcel number or other unique reference, of the real property under
16 negotiation)

17 Agency negotiator: (Specify names of negotiators attending the
18 closed session) (If circumstances necessitate the absence of a
19 specified negotiator, an agent or designee may participate in place
20 of the absent negotiator so long as the name of the agent or
21 designee is announced at an open session held prior to the closed
22 session.)

23 Negotiating parties: (Specify name of party (not agent))

24 Under negotiation: (Specify whether instruction to negotiator
25 will concern price, terms of payment, or both)

26 (c) With respect to every item of business to be discussed in
27 closed session pursuant to Section 54956.9:

28 CONFERENCE WITH LEGAL COUNSEL—EXISTING
29 LITIGATION

30 ~~(Subdivision (a) (Paragraph (1) of subdivision (d) of Section~~
31 54956.9)

32 Name of case: (Specify by reference to claimant's name, names
33 of parties, case or claim numbers)

34 or

35 Case name unspecified: (Specify whether disclosure would
36 jeopardize service of process or existing settlement negotiations)

37 CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED
38 LITIGATION

1 Significant exposure to litigation pursuant to ~~subdivision (b)~~
2 *paragraph (2) or (3) of subdivision (d)* of Section 54956.9: (Specify
3 number of potential cases)

4 (In addition to the information noticed above, the agency may
5 be required to provide additional information on the agenda or in
6 an oral statement prior to the closed session pursuant to
7 ~~subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision~~
8 ~~(b) paragraphs (2) to (5), inclusive, of subdivision (e)~~ of Section
9 54956.9.)

10 Initiation of litigation pursuant to ~~subdivision (e) paragraph (4)~~
11 *of subdivision (d)* of Section 54956.9: (Specify number of potential
12 cases)

13 (d) With respect to every item of business to be discussed in
14 closed session pursuant to Section 54956.95:

15 **LIABILITY CLAIMS**

16 Claimant: (Specify name unless unspecified pursuant to Section
17 54961)

18 Agency claimed against: (Specify name)

19 (e) With respect to every item of business to be discussed in
20 closed session pursuant to Section 54957:

21 **~~THREAT TO PUBLIC SERVICES OR FACILITIES~~**

22 ~~Consultation with: (Specify name of law enforcement agency~~
23 ~~and title of officer, or name of applicable agency representative~~
24 ~~and title)~~

25 **PUBLIC EMPLOYEE APPOINTMENT**

26 Title: (Specify description of position to be filled)

27 **PUBLIC EMPLOYMENT**

28 Title: (Specify description of position to be filled)

29 **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

30 Title: (Specify position title of employee being reviewed)

31 **PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE**

32 (No additional information is required in connection with a
33 closed session to consider discipline, dismissal, or release of a
34 public employee. Discipline includes potential reduction of
35 compensation.)

36 (f) With respect to every item of business to be discussed in
37 closed session pursuant to Section 54957.6:

38 **CONFERENCE WITH LABOR NEGOTIATORS**

39 Agency designated representatives: (Specify names of designated
40 representatives attending the closed session) (If circumstances

1 necessitate the absence of a specified designated representative,
2 an agent or designee may participate in place of the absent
3 representative so long as the name of the agent or designee is
4 announced at an open session held prior to the closed session.)

5 Employee organization: (Specify name of organization
6 representing employee or employees in question)

7 or

8 Unrepresented employee: (Specify position title of unrepresented
9 employee who is the subject of the negotiations)

10 (g) With respect to closed sessions called pursuant to Section
11 54957.8:

12 CASE REVIEW/PLANNING

13 (No additional information is required in connection with a
14 closed session to consider case review or planning.)

15 (h) With respect to every item of business to be discussed in
16 closed session pursuant to Sections 1461, 32106, and 32155 of the
17 Health and Safety Code or Sections 37606 and 37624.3 of the
18 Government Code:

19 REPORT INVOLVING TRADE SECRET

20 Discussion will concern: (Specify whether discussion will
21 concern proposed new service, program, or facility)

22 Estimated date of public disclosure: (Specify month and year)

23 HEARINGS

24 Subject matter: (Specify whether testimony/deliberation will
25 concern staff privileges, report of medical audit committee, or
26 report of quality assurance committee)

27 (i) With respect to every item of business to be discussed in
28 closed session pursuant to Section 54956.86:

29 CHARGE OR COMPLAINT INVOLVING INFORMATION
30 PROTECTED BY FEDERAL LAW

31 (No additional information is required in connection with a
32 closed session to discuss a charge or complaint pursuant to Section
33 54956.86.)

34 (j) With respect to every item of business to be discussed in
35 closed session pursuant to Section 54956.96:

36 CONFERENCE INVOLVING A JOINT POWERS AGENCY
37 (Specify by name)

38 Discussion will concern: (Specify closed session description
39 used by the joint powers agency)

1 Name of local agency representative on joint powers agency
2 board: (Specify name)

3 (Additional information listing the names of agencies or titles
4 of representatives attending the closed session as consultants or
5 other representatives.)

6 (k) With respect to every item of business to be discussed in
7 closed session pursuant to Section 54956.75:

8 ~~AUDIT BY BUREAU OF STATE AUDITS CALIFORNIA~~
9 ~~STATE AUDITOR'S OFFICE~~

10 SEC. 3. Section 54957 of the Government Code is amended
11 to read:

12 54957. (a) This chapter shall not be construed to prevent the
13 legislative body of a local agency from holding closed sessions on
14 matters posing a threat to the security of public buildings, a threat
15 to the security of essential public services, including water,
16 drinking water, wastewater treatment, natural gas service, and
17 electric service, or a threat to the public's right of access to public
18 services or public facilities, with any of the following:

19 (1) The Governor; and his or her staff with direct expertise or
20 authority on the subject matter under discussion.

21 (2) The Attorney General, or his or her deputies.

22 (3) The Secretary of California Emergency Management, or its
23 successor agency, or his or her deputies.

24 (4) The Adjutant General of the California National Guard, or
25 his or her deputies, chief of staff, or Joint Operations Director.

26 (5) The Commissioner of the California Highway Patrol, or his
27 or her deputies.

28 (6) The State Public Health Officer, or his or her deputies.

29 (7) The district attorney, or his or her deputies.

30 (8) An agency counsel, or his or her deputies.

31 (9) The sheriff, or his or her deputies.

32 (10) A chief of police, or his or her deputies.

33 (11) A security consultant.

34 (12) A security operations manager.

35 (b) (1) Subject to paragraph (2), this chapter shall not be
36 construed to prevent the legislative body of a local agency from
37 holding closed sessions during a regular or special meeting to
38 consider the appointment, employment, evaluation of performance,
39 discipline, or dismissal of a public employee or to hear complaints

1 or charges brought against the employee by another person or
2 employee unless the employee requests a public session.

3 (2) As a condition to holding a closed session on specific
4 complaints or charges brought against an employee by another
5 person or employee, the employee shall be given written notice of
6 his or her right to have the complaints or charges heard in an open
7 session rather than a closed session, which notice shall be delivered
8 to the employee personally or by mail at least 24 hours before the
9 time for holding the session. If notice is not given, any disciplinary
10 or other action taken by the legislative body against the employee
11 based on the specific complaints or charges in the closed session
12 shall be null and void.

13 (3) The legislative body also may exclude from the public or
14 closed meeting, during the examination of a witness, any or all
15 other witnesses in the matter being investigated by the legislative
16 body.

17 (4) For the purposes of this subdivision, the term “employee”
18 shall include an officer or an independent contractor who functions
19 as an officer or an employee but shall not include any elected
20 official, member of a legislative body, or other independent
21 contractors. This subdivision shall not limit local officials’ ability
22 to hold closed session meetings pursuant to Sections 1461, 32106,
23 and 32155 of the Health and Safety Code or Sections 37606 and
24 37624.3 of the Government Code. Closed sessions held pursuant
25 to this subdivision shall not include discussion or action on
26 proposed compensation except for a reduction of compensation
27 that results from the imposition of discipline.

28 SEC. 4. The Legislature finds and declares that Section 3 of
29 this act, which amends Section 54957 of the Government Code,
30 imposes a limitation on the public’s right of access to the meetings
31 of public bodies or the writings of public officials and agencies
32 within the meaning of Section 3 of Article I of the California
33 Constitution. Pursuant to that constitutional provision, the
34 Legislature makes the following findings to demonstrate the interest
35 protected by this limitation and the need for protecting that interest:

36 Without some freedom to protect sensitive information, security
37 is compromised. Therefore, the health and safety of the people of
38 California are enhanced by giving governing bodies the authority
39 to meet with the Governor in closed meetings to discuss security
40 matters that may include sensitive information.

1 *SEC. 5. (a) Section 2.1 of this bill incorporates amendments*
2 *to Section 54954.5 of the Government Code proposed by both this*
3 *bill and Assembly Bill 2690. It shall become operative only if (1)*
4 *both bills are enacted and become effective on or before January*
5 *1, 2013, (2) each bill amends Section 54954.5 of the Government*
6 *Code, (3) Senate Bill 1395 is not enacted or as enacted does not*
7 *amend that section, and (4) this bill is enacted after Assembly Bill*
8 *2690, in which case Sections 2, 2.3 and 2.5 of this bill shall not*
9 *become operative.*

10 *(b) Section 2.3 of this bill incorporates amendments to Section*
11 *54954.5 of the Government Code proposed by both this bill and*
12 *Senate Bill 1395. It shall become operative only if (1) both bills*
13 *are enacted and become effective on or before January 1, 2013,*
14 *(2) each bill amends Section 54954.5 of the Government Code,*
15 *(3) Assembly Bill 2690 is not enacted or as enacted does not amend*
16 *that section, and (4) this bill is enacted after Senate Bill 1395 in*
17 *which case Sections 2, 2.1 and 2.5 of this bill shall not become*
18 *operative.*

19 *(c) Section 2.5 of this bill incorporates amendments to Section*
20 *54954.5 of the Government Code proposed by this bill, Assembly*
21 *Bill 2690, and Senate Bill 1395. It shall become operative only if*
22 *(1) all three bills are enacted and become effective on or before*
23 *January 1, 2013, (2) all three bills amend Section 54954.5 of the*
24 *Government Code, and (3) this bill is enacted after Assembly Bill*
25 *2690 and Senate Bill 1395, in which case Sections 2, 2.1, and 2.3*
26 *of this bill shall not become operative.*